

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6283 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos. 1 to 5 No.

G S R T C

Versus

IQBAL GULABHAI RATHOD

Appearance:

MR YS LAKHANI for Petitioner

MR DM AHUJA for Respondent.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 15/04/97

ORAL JUDGEMENT

The respondent workman was working as Artisan Mechanic in Gujarat State Road Transport Corporation. An inquiry was held against the respondent workman and on that basis the respondent was dismissed from the service by an order dated 5.3.1983. The respondent preferred an Appeal before the Corporation which was dismissed on 16.1.1984. Further Appeal was preferred by the

respondent on 6.3.1984 and the respondent also raised an industrial dispute. The Labour Officer, Junagadh made a reference on 1.8.1984 and the respondent placed charter of demand in the Labour Court on 8.7.1987. The Labour Court has found that the inquiry held against the respondent was not proper and that it was a case of victimization. The Labour Court has passed the Award granting relief of reinstatement with continuity of service, for which I do not find any infirmity in the Award because the inquiry has been held to be improper and the Labour Court has found it to be a case of victimization. However, I find that on the question of backwages the Labour Court has not applied its mind at all and the relief of full backwages has been granted as if it was a direct consequence to follow the relief of reinstatement. It appears that the Labour Court was simply moved by the case that the respondent was suffering from Tuberculosis in 1981 and therefore, he had remained absent and on that ground he could not carryout the transfer order. This ground could be sufficient for the purpose of granting relief of reinstatement but the Labour Court has not considered as to whether the respondent had remained in gainful employment from 1983 till the date of the Award. Except bald contention raised on behalf of the respondent that he could not get the job nothing was brought on record to show that the respondent remained without any employment during the entire period of enforced idleness and after finding that the respondent was entitled to the relief of reinstatement at the bottom of page 13 of the Award, the Labour Court has straight way passed the order granting full backwages for the period from 1983 to 1996 i.e. the date of the Award. It is, therefore, clearly established that relief of backwages has been granted without application of mind by the Labour Court. The Award therefore suffers from the error of fact and law with reference to total non application of mind so far as the question of relief of full backwages is concerned. The impugned Award, therefore, cannot be sustained so far as the grant of the relief of full backwages.

In the result, this Special Civil Application is partly allowed, while the relief of reinstatement with continuity of service granted by the Labour Court, Bhavnagar is upheld, the relief of full backwages for the entire period from the date of dismissal till date of the Award is hereby quashed and set aside. It is agreed position that the respondent has already been reinstated in terms of the Award and is continuing in service. Rule is therefore made absolute in the terms as aforesaid. No order as to costs.
